## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

CHEVRON CORP.,

Plaintiffs,

-against-

Case No. 1:12-mc-00065 LAK/CFH

Hon. Lewis A. Kaplan

STEVEN DONZIGER, et al.,

Defendants.

**NOTICE OF APPEAL** 

NOTICE is hereby given that the Non-Party John Doe Movants, owners of the Microsoft email accounts simeontegel@hotmail.com, mey\_1802@hotmail.com, pirancha@hotmail.com, and duruti@hotmail.com, Movants in the above-named case, hereby appeal to the United States Court of Appeals for the Second Circuit, from the Memorandum Opinion denying the Non-Party John Doe Movants' Motion to Quash entered in this action on the 25<sup>th</sup> day of June, 2013 (ECF No. 50).

Dated this 18<sup>th</sup> day of July, 2013 at San Francisco, California.

Respectfully submitted,

\_\_\_\_\_\_\_/s/ Mitchell L. Stoltz Mitchell L. Stoltz, Esq. (Bar Roll No. 517844) Nathan Cardozo, Esq. (pro hac vice pending) ELECTRONIC FRONTIER FOUNDATION 815 Eddy Street San Francisco, CA 94109 Telephone: (415) 436-9333 Facsimile: (415) 436-9993

Marco Simons, Esq. marco@earthrights.org EARTHRIGHTS INTERNATIONAL 1612 K Street NW, Suite 401 Washington, DC 20006 Telephone: (202) 466-5188

Counsel for Non-Party John Doe Movants

#### **CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2013, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

Randy M. Mastro GIBSON, DUNN & CRUTCHER, LLP 200 Park Avenue, 47th Floor New York, NY 10166-0193

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Attorneys for Defendants Steven Donziger, The Law Offices of Steven R. Donziger, Donziger & Associates, PLLC, Javier Piaguaje Payaguaje, and Hugo Gerardo Camacho Naranjo

And, I hereby certify that I have mailed by the United States Postal Service the document to the following non-CM/ECF Participants:

Microsoft Corporation c/o Corporation Service Company 80 State Street Albany, NY 12207 Brien Jacobsen <br/>
Sprieni@microsoft.com>

I declare under penalty of perjury that the foregoing is true and correct. Executed on July

18, 2013.

Stephanie Shattuck

Legal Secretary

On behalf of:

Mitchell L. Stoltz, Esq.

(Bar Roll No. 517844)

Nathan Cardozo, Esq.

(pro hac vice pending)

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APPEAL, CLOSED

# U.S. District Court Northern District of New York – Main Office (Syracuse) [LIVE – Version 5.1.1] (Albany) CIVIL DOCKET FOR CASE #: 1:12-mc-00065-lk-CFH

Chevron Corporation v. Donziger et al

Assigned to: Lewis A. Kaplan

Referred to: Magistrate Judge Christian F. Hummel Case in other court: Southern District of New York,

1:11-CV00691

#### **Plaintiff**

**Chevron Corporation** 

Date Filed: 10/19/2012 Date Terminated: 06/25/2013

represented by Randy M. Mastro

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#### Casas d: 312172-4nc-0000657lkr0:FH1 AsPafg 07619/20181052013PM 1998112 of 913

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#### **Defendant**

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ATTORNEY TO BE NOTICED

#### Matthew M. Werdegar

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/19/2012	<u>1</u>	MOTION to Quash Subpoena filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Civil Cover Sheet, #2 Declaration, #3 Proposed Order, #4 certificate of service) Motions referred to Christian F. Hummel. (tab) (Entered: 10/22/2012)
10/22/2012	2	MOTION to Quash and Motion (Memorandum of Law) filed by JOHN DOE. (Attachments: #_1 Memorandum of Law, #_2 Declaration, #_3 Declaration, #_4 Declaration, #_5 Certificate of Service) Motions referred to Christian F. Hummel. (Henner, Peter) (Entered: 10/22/2012)
10/23/2012	3	MOTION for Limited Admission Pro Hac Vice of Marcia Hofmann Filing fee \$100, receipt number 0206–2350474. filed by JOHN DOE. (Attachments: #1 Exhibit(s) ECF Registration, #2 Exhibit(s) Oath of Admission, #3 Exhibit(s) Admission order, #4 Affidavit Sponsor Affidavit) Motions referred to Christian F. Hummel. (Henner, Peter) (Attachment 4 replaced on 10/23/2012) (lah, ). (Entered: 10/23/2012)

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10/24/2012	4	AFFIDAVIT re <u>2</u> MOTION to Quash and Motion (Memorandum of Law) Certificate of Service by mail of upon parties not yet linked to ECF sytem for this case by JOHN DOE. (Henner, Peter) (Entered: 10/24/2012)
11/02/2012	<u>5</u>	MOTION for Limited Admission Pro Hac Vice of Craig Smyser Filing fee \$100, receipt number 0206–2363317. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Petition for Admission to Practice, #2 Certificate of Good Standing, #3 New Attorney E–Filing Registration Form, #4 Oath on Admision, #5 Order) Motions referred to Christian F. Hummel. (Gray, Justin) (Entered: 11/02/2012)
11/02/2012	<u>6</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/02/2012)
11/02/2012	7	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/02/2012)
11/09/2012	8	AFFIDAVIT in Support re 5 MOTION for Limited Admission Pro Hac Vice of Craig Smyser Filing fee \$100, receipt number 0206–2363317. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	9	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger of Affidavit in Support of Motion for Pro Hac Vice Admission (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	<u>10</u>	MOTION for Limited Admission Pro Hac Vice of Larry R. Veselka Filing fee \$100, receipt number 0206–2369923. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Petition, #2 E–Filing Registration, #3 Good Standing, #4 Oath on Admission, #5 Order) Motions referred to Christian F. Hummel. (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	11	MOTION for Limited Admission Pro Hac Vice of John W. Keker Filing fee \$100, receipt number 0206–2369948. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Petition, #2 E–Filing Registration, #3 Good Standing, #4 Oath, #5 Order) Motions referred to Christian F. Hummel. (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	<u>12</u>	MOTION for Limited Admission Pro Hac Vice of Matthew Mickle Werdegar Filing fee \$100, receipt number 0206–2369967. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Petition, #2 E–Filing Registration, #3 Good Standing, #4 Oath, #5 Order) Motions referred to Christian F. Hummel. (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	13	MOTION for Limited Admission Pro Hac Vice of Jan Nielsen Little Filing fee \$100, receipt number 0206–2369980. filed by Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Petition, #2 E–Filing Registration, #3 Good Standing Certificate, #4 Oath, #5 Order) Motions referred to Christian F. Hummel. (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	<u>14</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/09/2012)
11/09/2012	<u>15</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/09/2012)

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<u>16</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/09/2012)
<u>17</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger (Gray, Justin) (Entered: 11/09/2012)
<u>18</u>	Letter Motion from Justin W. Gray, Esq. for Steven Donziger, Donziger &Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger requesting Conference submitted to Judge Christian F. Hummel, Magistrate . (Attachments: #1 Affidavit Certificate of Service)(Gray, Justin) (Entered: 11/30/2012)
<u>19</u>	NOTICE of Appearance by Mitchell L. Stoltz on behalf of JOHN DOE (Stoltz, Mitchell) (Entered: 12/11/2012)
<u>20</u>	ORDER granting 3 Motion for Limited Admission Pro Hac Vice for Marcia C. Hofmann. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
<u>21</u>	ORDER granting 13 Motion for Limited Admission Pro Hac Vice for Jan Nielsen Little. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
<u>22</u>	ORDER granting 5 Motion for Limited Admission Pro Hac Vice for Craig Smyser. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
<u>23</u>	ORDER granting 10 Motion for Limited Admission Pro Hac Vice for Larry R. Veselka. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
24	ORDER granting 11 Motion for Limited Admission Pro Hac Vice for John W. Keker. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
<u>25</u>	ORDER granting 12 Motion for Limited Admission Pro Hac Vice for Matthew Mickle Werdegar. Signed by Chief Judge Gary L. Sharpe on 12/13/2012. (jel, ) (Entered: 12/13/2012)
26	TEXT ONLY CLERK'S NOTICE OF DOCKET ENTRY: Orders granting Pro Hac Vice Motions re 23 Order on Motion for Limited Admission Pro Hac Vice, 20 Order on Motion for Limited Admission Pro Hac Vice, 21 Order on Motion for Limited Admission Pro Hac Vice, 25 Order on Motion for Limited Admission Pro Hac Vice, 24 Order on Motion for Limited Admission Pro Hac Vice, 24 Order on Motion for Limited Admission Pro Hac Vice, (Entered: 12/13/2012)
<u>27</u>	ORDER REASSIGNING CASE. Case reassigned to Lewis A. Kaplan for all further proceedings. Chief Judge Gary L. Sharpe no longer assigned to case. Signed by Chief Judge Gary L. Sharpe on 12/13/12. (tab) (Entered: 12/13/2012)
<u>28</u>	LETTER BRIEF <i>TO JUDGE CHRISTIAN HUMMEL</i> by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger. (Attachments: #1 Order of Judge Kaplan)(Gray, Justin) (Entered: 12/13/2012)
<u>29</u>	CERTIFICATE OF SERVICE by Steven Donziger, Donziger & Associates, PLLC, Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje, The Law Offices of Steven R. Donziger re 28 LETTER BRIEF, (Gray, Justin) (Entered: 12/13/2012)
<u>30</u>	MEMO ENDORSED/ORDER Setting Hearing on Motion <u>2</u> MOTION to Quash and Motion (Memorandum of Law), <u>1</u> MOTION to Quash: Response to Motion due by 1/15/2013. Signed by Lewis A. Kaplan on 12/19/2012. (jel, ) (Entered: 12/20/2012)
<u>31</u>	NOTICE of Appearance by Paul DerOhannesian, II on behalf of Chevron Corporation (DerOhannesian, Paul) (Entered: 01/02/2013)
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01/02/2013	<u>32</u>	AMENDED DOCUMENT by Chevron Corporation. Amendment to <u>31</u> Notice of Appearance . (DerOhannesian, Paul) (Entered: 01/02/2013)
01/02/2013	<u>33</u>	NOTICE of Appearance by Randy M. Mastro on behalf of Chevron Corporation (Mastro, Randy) (Entered: 01/02/2013)
01/02/2013	<u>34</u>	NOTICE of Appearance by Howard S. Hogan on behalf of Chevron Corporation (Hogan, Howard) (Entered: 01/02/2013)
01/15/2013	<u>35</u>	RESPONSE in Opposition re <u>2</u> MOTION to Quash and Motion (Memorandum of Law) CHEVRON CORPORATION'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION OF NON-PARTY JOHN DOE MOVANTS TO QUASH SUBPOENAS TO MICROSOFT, INC. SEEKING IDENTITY AND EMAIL USAGE INFORMATION filed by Chevron Corporation. (Mastro, Randy) (Entered: 01/15/2013)
01/15/2013	<u>36</u>	RESPONSE in Opposition re_1 MOTION to Quash CHEVRON CORPORATION'S OPPOSITION TO RICO DEFENDANTS' MOTION TO QUASH SUBPOENA TO MICROSOFT CORPORATION filed by Chevron Corporation. (Mastro, Randy) (Entered: 01/15/2013)
01/15/2013	37	AFFIDAVIT in Opposition re 1 MOTION to Quash, 2 MOTION to Quash and Motion (Memorandum of Law) DECLARATION OF REBECCA GRAY ON BEHALF OF CHEVRON CORPORATION IN OPPOSITION TO MOTIONS TO QUASH A SUBPOENA TO MICROSOFT CORPORATION filed by Chevron Corporation. (Attachments: #1 Exhibit(s) A, #2 Exhibit(s) B, #3 Exhibit(s) C, #4 Exhibit(s) D, #5 Exhibit(s) E, #6 Exhibit(s) F, #7 Exhibit(s) G, #8 Exhibit(s) H, #9 Exhibit(s) I, #10 Exhibit(s) J, #11 Exhibit(s) K, #12 Exhibit(s) L, #13 Exhibit(s) M)(Mastro, Randy) (Entered: 01/15/2013)
01/16/2013	38	AFFIDAVIT in Opposition re <u>1</u> MOTION to Quash <i>DECLARATION OF ALEXANDER T. MARX ON BEHALF OF CHEVRON CORPORATION IN OPPOSITION TO THE RICO DEFENDANTS' MOTION TO QUASH SUBPOENAS TO MICROSOFT CORPORATION</i> filed by Chevron Corporation. (Attachments: # <u>1</u> Exhibit(s) 1, # <u>2</u> Exhibit(s) 2, # <u>3</u> Exhibit(s) 3, # <u>4</u> Exhibit(s) 4, # <u>5</u> Exhibit(s) 5, # <u>6</u> Exhibit(s) 6, # <u>7</u> Exhibit(s) 7, # <u>8</u> Exhibit(s) 8, # <u>9</u> Exhibit(s) 9)(Mastro, Randy) (Entered: 01/16/2013)
01/16/2013	<u>39</u>	AFFIDAVIT in Opposition re <u>2</u> MOTION to Quash and Motion (Memorandum of Law) DECLARATION OF ALEXANDER T. MARX ON BEHALF OF CHEVRON CORPORATION IN OPPOSITION TO THE NON-PARTY MOVANTS' MOTION TO QUASH SUBPOENAS TO MICROSOFT CORPORATION filed by Chevron Corporation. (Attachments: <u>#1</u> Exhibit(s) 1, <u>#2</u> Exhibit(s) 2, <u>#3</u> Exhibit(s) 3, <u>#4</u> Exhibit(s) 4, <u>#5</u> Exhibit(s) 5, <u>#6</u> Exhibit(s) 6, <u>#7</u> Exhibit(s) 7, <u>#8</u> Exhibit(s) 8, <u>#9</u> Exhibit(s) 9, <u>#10</u> Exhibit(s) 10, <u>#11</u> Exhibit(s) 11, <u>#12</u> Exhibit(s) 12, <u>#13</u> Exhibit(s) 13, <u>#14</u> Exhibit(s) 14)(Mastro, Randy) (Entered: 01/16/2013)
01/23/2013	40	ORDER – Movants have requested that the Court set a hearing date on the motions to quash in order to fix the date by which their reply papers will be due. The Court will take the matter on submission unless otherwise ordered and thereby declines to set a hearing date. Reply papers shall be filed and served no later than February 1, 2013. Signed by Lewis A. Kaplan on 1/22/2013. (jel, ) (Entered: 01/23/2013)
01/23/2013	41	ORDER TO SHOW CAUSE – The "John Doe" movants shall show cause, on or before february 6, 2013, why they should not be required to submit to the undersigned affidavits or delcarations revealing to the Court their true identities which will be filed under seal unless and until the Court otherwise orders. The Court well understands that the question whether the "John Does" identies should be revealed to Chevron or more broadly is distinct from the question whether the Court should be so informed and does not intend to address that issue – which is implicated by the pending motion – on this order to show cause. Signed by Lewis A. Kaplan on 1/23/2013. (jel,) (Entered: 01/23/2013)
02/01/2013	42	REPLY to Response to Motion re <u>2</u> MOTION to Quash <i>and Motion (Memorandum of Law)</i> filed by JOHN DOE. (Attachments: # <u>1</u> Declaration Supplemental of Michelle Harrison, # <u>2</u> Declaration of John Doe #2)(Stoltz, Mitchell) (Entered: 02/01/2013)

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02/06/2013	43	RESPONSE TO ORDER TO SHOW CAUSE filed by JOHN DOE. (Attachments: #1 Declaration of Michelle Harrison, #2 Certificate of Service)(Stoltz, Mitchell) (Entered: 02/06/2013)
02/13/2013	44	MEMORANDUM AND ORDER – The Court construes Rule 10(a) as requiring that any non–party who files an application for relief in a federal court identify him–, her–, or itself in the initial pleading or motion filed on its behalf. That initial pleading or motion shall be filed publicly in the absence of an order permitting its filing under seaL Pursuant to Federal Rules of Civil Procedure 1, 10(a), and 16(c)(2)(A), (G), (L), and (P), and the inherent power of the Court, the JOHN DOE movants, on or before February 19,2013, shall submit to the chambers of the undersigned (1) the original, signed declarations they have filed publicly under anonymous names, and (2) an affidavit or declaration identifying each individual or entity on behalf of which the motion to quash has been made. These documents will be filed under seal unless and until the Court otherwise orders. Signed by Lewis A. Kaplan on 2/12/2013. (jel, ) (Entered: 02/13/2013)
02/19/2013	<u>45</u>	NOTICE by JOHN DOE <i>of Filing In Camera and Under Seal</i> (Attachments: #_1 Declaration of Nathan Cardozo, #_2 Certificate of Service)(Stoltz, Mitchell) (Entered: 02/19/2013)
02/25/2013	46	***SEALED DOCUMENT. (jel, ) (Entered: 02/25/2013)
04/04/2013	47	NOTICE of Change of Address for Electronic Frontier Foundation, filed by Mitchell L. Stoltz, Effective Date April 12, 2013. Old Address: 454 Shotwell Street, San Francisco, CA 94110 New Address: 815 Eddy Street, San Francisco, CA 94109 (Stoltz, Mitchell) (Entered: 04/04/2013)
05/13/2013	48	NOTICE by JOHN DOE Notice of Withdrawal of Marcia Hofmann as Counsel for Plaintiffs and Request for Order Granting Withdrawal (Hofmann, Marcia) (Entered: 05/13/2013)
05/16/2013	<u>49</u>	MOTION for Limited Admission Pro Hac Vice of Nathan Cardozo Filing fee \$100, receipt number 0206–2553710. filed by JOHN DOE. Motions referred to Christian F. Hummel. (Stoltz, Mitchell) (Entered: 05/16/2013)
06/25/2013	<u>50</u>	MEMORANDUM OPINION – The <u>1</u> Motion to Quash and <u>2</u> Motion to Quash Chevron's subpoena to Microsoft are denied. Signed by Lewis A. Kaplan on 6/25/2013. (jel, ) (Entered: 06/25/2013)
06/25/2013	<u>51</u>	MOTION to Withdraw as Attorney by Smyser Kaplan & Veselka, L.L.P. filed by Hugo Gerardo Camacho Naranjo, Javier Piaguaje Payaguaje. (Attachments: #_1 Proposed Order/Judgment) Motions referred to Christian F. Hummel. (Veselka, Larry) (Entered: 06/25/2013)
06/26/2013	<u>52</u>	ORDER – The motion of Smyser Kaplan &Veselka, L.L.P., including Craig Smyser and Larry R. Veselka, for leave to withdraw as counsel for defendants Naranjo and Payaguage is denied as moot in light of the fact that the case now has been decided. Signed by Lewis A. Kaplan on 6/26/2013. (jel, ) (Entered: 06/26/2013)
07/09/2013	<u>53</u>	MOTION for Reconsideration re <u>50</u> Order on Motion to Quash, filed by JOHN DOE. (Attachments: # <u>1</u> Declaration of John Doe) (Stoltz, Mitchell) (Entered: 07/09/2013)
07/16/2013	54	RESPONSE in Opposition re 53 MOTION for Reconsideration re 50 Order on Motion to Quash, / CHEVRON CORPORATION'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION OF NON-PARTY JOHN DOE MOVANTS FOR RECONSIDERATION OF THE COURT'S JUNE 25, 2013 ORDER DENYING THE MOVANTS' MOTION TO QUASH SUBPOENA ISSUED TO MICROSOFT filed by Chevron Corporation. (Mastro, Randy) (Entered: 07/16/2013)
07/18/2013	<u>55</u>	NOTICE OF APPEAL as to <u>50</u> Order on Motion to Quash, by JOHN DOE. Filing fee \$ 455, receipt number 0206–2620209. (Stoltz, Mitchell) (Entered: 07/18/2013)
07/19/2013	<u>56</u>	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals re 55 Notice of Appeal. (lah) (Entered: 07/19/2013)